



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,255	02/10/2005	John Richard Salvage	09375.0037USWO	9893

23552 7590 01/08/2007  
MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER
----------

MCGRAW, TREVOR EDWIN

ART UNIT	PAPER NUMBER
----------	--------------

3752

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/524,255

Applicant(s)

SALVAGE, JOHN RICHARD

Examiner

Trevor McGraw

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/01/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 9 of Claim 41, Applicant recites the limitation "a conventional pump dispenser trigger". Examiner holds that the limitation "a conventional pump dispenser trigger" is indefinite as the definition of what a "conventional pump dispenser trigger" could change over the years to one having ordinary skill in the art. Examiner suggests that Applicant use alternate language to better specify the trigger.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-27 and 31-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kock et al. (US 5,377,875).

In regard to Claims 24-27 and 31-41, Kock et al. (5,377,875) teaches a spray dispenser (Figures 2 and 5) for dispensing liquids where the dispenser has a collapsible liquid impermeable vessel (22) that can be filled at least partially with a liquid having an

Art Unit: 3752

open end (Figure 2 and 5) comprising a neck portion with a collar that is more rigid than the vessel where an extraction means (Column 2 Lines 15-31) for extracting liquid from the flexible vessel to dispense the liquid as a spray and a sealing means (50) arrange in a manner between the extraction means and the vessel where the sealing means is around so that the collar of the vessel engages with the sealing means, the vessel is substantially sealed to the extraction means and airflow into the flexible vessel is substantially inhibited (Figure 5) having the sealing means and extraction means arrange so that the extraction means is operable to dispense liquid from the vessel while the sealing means is in a sealing position where the collar has a circumference that is formed separately from the neck portion (Figure 2) and joined around the collar circumference where the collar is inserted into a neck portion (Figure 5) and where the vessel is made of an inert plastic material (Column 10, Line 14-32) where the collar and neck are made of the same material (Figure 2 and 5) where the extraction means includes a dispensing line that extends through the seal means into the vessel where the dispensing line is gripped in sealing engagement with a bore through the seal means (Figure 5) where the vessel collapses from an expanded state to a collapsed state as liquid is extracted from the vessel (Column 9, Lines 54-Column 10 line 4) and the spraying dispenser further has a support means for supporting the vessel (Figure 5, 77, 78, 52) on a support neck that defines an opening for locating the extraction means and the support neck is configured to cooperate in sealing engagement with the vessel where the collar has an annular lip that rests on the support neck of a support means which has a vent to permit air instead the support means and external of the vessel so

Art Unit: 3752

as to permit ambient atmospheric pressure conditions. Kock et al. further teaches a spray dispenser with a bung sealing or flange arrangement (71, 41,55) that has an aperture through it where the bung is arranged in sealing position (Figure 5) between a trigger assembly (70) that dispenses a liquid from the vessel and a vessel where the bung aperture is in fluid communication with a dip tube where a collar of the vessel (Figure 5) is substantially sealed to the trigger assembly (70) and air access to the vessel is prohibited. Kock et al. additionally teaches where a support container (52) is provided with a support neck (Figure 5) and cooperates in a sealing manner with the vessel where the collar has an annular lip that rests on the support neck of the support container where the support container has a vent that allows air inside the support container but external of the vessel.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Jouillat (US 5,388,727).

In regard to Claims 42 and 43, Jouillat (5,388,727) teaches that it is known to have a spraying dispenser that comprises a vessel (20) that has an open end (Column 3, Lines 12-41) that has a neck portion provided with a collar that is more rigid than the collar (Figures 1, 3, and 7) where the collar is adapted to seal with a seal means

Art Unit: 3752

(Column 4, Lines 3-29) that is provided between an extraction means of the spray dispenser and the vessel where the vessel is manufactured by welding at least two sheets of plastic material together (Column 3, Lines 13-26) where the vessel has a collar inserted into the neck portion and is welded around the circumference of the collar and the welding is performed a plurality of times by a welding apparatus where the orientation of the collar and neck portion varies as the weld is completed (Column 4, Line 30 – Column 6, Line 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 28-30 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Kock et al. (US 5,377,875) in view of Jouillat (US 5,388,727).

In regard to Claims 24 and 28-30, Kock et al. as described and taught above fails to teach where the collar and neck portion arrangement are welded together around the full collar circumference where welding the collar is performed a plurality of times by a welding apparatus where the orientation of the collar and neck portion varies as the weld is completed where the vessel has at least two sheets of material to be welded together at edges to form the vessel and where excess material is removed from the neck portion prior to welding the collar. However, Jouillat as described and taught above does in fact teach a spray dispenser assembly that has a collar and neck portion

Art Unit: 3752

that are welded together (Column 4 Line 30 – Column 6, Line 10). It would have been obvious to one having ordinary skill in that art at the time the present invention was made to weld the neck and collar arrangement of Kock et al. with the welding process of Jouillat, in order to provide for an advantageous way of attaching two similar materials to ensure a proper seal occurs for liquids that must be maintained in a clean state for sanitary reasons.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meshberg (US 6,247,613), Gaucher (US 5,813,571), Arzani et al. (US 5,123,560), Gueret (US 5,477,985).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trevor McGraw  
Art Unit 3752

TEM



Frederick C. Nicolas  
PRIMARY EXAMINER